

05-CR-05823-ORD

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA

CASE NO. 05-5823 RBL

Plaintiff,

Order Re Dunigan's Motion for
Pretrial Deposition (~~proposed~~)

v.

THOMAS EVANS DUNIGAN, et. al.
Defendant.

Order

Defendant Thomas Dunigan moves the Court pursuant to FRCr 15 for an order allowing him to depose several witnesses¹ who will be unavailable for trial in February 2007. He further asks the Court to preside over these depositions and to do so with a vidcogrpaher.

The Court finds that the unavailability of these witnesses constitutes "exceptional circumstances" as contemplated by the above rule and orders that such

¹These witnessses are: (1) Sgt. Luis Macias (Hqr. Company 2/3 Inf. Battalion Ft. Lewis); (2)Sgt. Marson Soaladaob ("A" Company 2/3rd Inf. Battalion Ft. Lewis) and (3) Specialist Larry Morris ("C" Company, 2/3rd Inf. Battalion Ft. Lewis).

depositions take place in the interests of justice. Accordingly, the individuals set forth in footnote 1 above shall be deposed on the following date, at U.S. District Court in Tacoma, in Courtroom B, with a videographer if the defense so desires: June 21, 2006 at 9:30 am/pm. These depositions will not be presided over by Judge Leighton. The cost for witness/videographer fees shall be borne by Defendant Dunigan and each party shall be responsible for the cost of obtaining a copy of the same. The Clerk shall issue subpoenas for the above witnesses immediately.

Entered this 13th date of June, 2006.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

Presented By:

By: /s/ _____
MARY K. HIGH, WSBA #20123
PHIL BRENNAN, WSBA #25711*
Attorney for Def. Dunigan; Date: 6/9/06

Approved orally following email review:

By: /s/ _____
GREGORY GRUBER, AUSA
KENT LIU, AUSA
Attorneys for the United States; Date: 6/9/06

Approved orally:

By: /s/ _____
CHARLES JOHNSTON,
Attorney for Michael Jordan; Date: 6/9/06

Approved by Ms. Olson orally as to form, no position as to merits at this time:

By: /s/ _____
ZENON OLBERTZ
PAULA OLSON
Attorneys for Marcus Moore; Date: 6/9/06